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ABSTRACT

The "Freedom of Speech Newsletter" is the communication medium, published four times each academic year, of the Freedom of Speech Interest Group, Western Speech Communication Association. Articles included in this issue are "What Is Academic Freedom For?" by Ralph Ross, "A Sociology of Free Speech" by Ray Heidt, "A Queer Interpretation fo the First Amendment: 'Homosexual' Acts Between Consenting Adults" by Sally Miller Gearhart, and "The Climate of Communication" by Herman Cohen. Also included are minutes of the November convention meeting and the text of a resolution commending Justice William O. Douglas, which was submitted to the S.C.A. Resolutions Committee, December 1975, by the chairman of the Commission on Freedom of Speech. (MKM)

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FREEDOM OF SPEECH

NEWSLETTER

The revelations of investigatory organizations' activities (F. B. I., C.I.A., I.R.S...) coming out of Washington, D. C. will undoubtedly result in a shuffling of organizational structures and overseers as well as redirect our attitudes toward those organizations. This may be for the better. Institutions **and** individuals should step back periodically and take a long look at themselves - review their philosophies, re-evaluate their goals, consider alternatives. The result would lead to a clearer confirmation of their identity, or reveal a new awareness with which to cope.

Those of us dealing with concepts that are basic to human liberty and dignity must also deal with the images reflected by placing our philosophies and goals before a mirror. We would then see that label "liberal" so often used in identifying people concerned with strict enforcement of First Amendment Rights is fallacious. If one is relating to the past as a guide to the future, defending tradition, attempting to maintain the Declaration of Independence, Bill of Rights and other Constitutional articles by the specificity with which they were written, then how does one fall into a "liberal" mode? Yet those who were found guilty in betraying the national trust vis-a-vis Watergate, made what were found in federal court to be illegal detention of citizens redressing their grievances to government, and are responsible for and promoting the current Senate Bill # 1 in toto - all under the guise of "Law and Order" - are labeled conservatives!

Obviously, what has happened is that whoever originally held the views of American political philosophies up to a mirror and labeled them neglected to take into account the reverse image. In point of fact, the "conservatives" as we see and understand them today are those positioned on the left side of middle; the "liberals", on the right side. If we are to understand a person by her or his actions, then regardless of political affiliations "Liberals" (or, perhaps, their extreme - "Revolutionaries") are behind Senate Bill # 1. Neither an awareness of those who created the bill nor the content of the bill reflects a "conservative/ reactionary" history (as the labels are defined herein).

It is hoped readers will secure a copy of Senate Bill # 1, read it, and respond. To whom? --- representatives in Congress, colleagues, family, friends . . . However, those who might prove to have the greatest impact --- lobbyists --- are not available to us. Does the W.S.C.A. have lobbyists in Sacramento, Denver, Olympia . . .? Does the S.C.A. have lobbyists in Washington, D. C.? No, they do not. Work must begin now in order to bring it before W.S.C.A. and S.C.A. legislative committees in the Fall. Who is "on the top of things" for us in or around the Government?

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CS 501 286

VOLUME II NUMBER 3 February 1976

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Dept. of Speech and Drama
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Hayward

Vice-Chairperson
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ARTICLES:

WHAT IS ACADEMIC FREEDOM FOR?

by Ralph Ross

A SOCIOLOGY OF FREE SPEECH

by Ray Heidt

A QUEER INTERPRETATION OF THE FIRST AMENDMENT: "HOMOSEXUAL" ACTS BETWEEN CONSENTING ADULTS

By Sally Miller Gearhart

THE CLIMATE OF COMMUNICATION

by Herman Cohen

Freedom of Speech Newsletter is the communication medium of the Freedom of Speech Interest Group, Western Speech Communication Association. The Newsletter is published four times per academic year in September, November, February, and April.

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ANNOUNCEMENTS:

Special thanks are extended to the Executive Committee of the Western Speech Communication Association for partial financing of the Freedom of Speech Newsletter. This cooperation is an example of the positive relationship between the W.S.C.A. and its interest groups.

* * *

Send all ideas for W.S.C.A. Convention November, 1976, to Professor John Hammerback, Chairman, California State University, Hayward, California 94542

* * *

NEXT NEWSLETTER DEADLINE - April 10

NEWSLETTER NOW IN PERMANENT FORM

The following is a letter recently received by the Freedom of Speech Newsletter from Jane Work, Director, Speech Communication Module, ERIC/RCS:

ANNOUNCEMENT OF DOCUMENT(S)
ENTERED INTO THE ERIC DATA BASE

Freedom of Speech Newsletter, November, 1975.

We believe you will be interested to learn that your document, cited above, has been accepted for inclusion in the ERIC system. This document is currently being processed by the Speech Communication Module of the ERIC Clearinghouse on Reading and Communication Skills. An abstract of your work will appear in the issue of Resources in Education dated: April 1976.

A microfliche copy of this material will be available to users at the more than 600 libraries and information centers which subscribe to the ERIC collection. Your document will also be indexed and stored on computer tape and can be retrieved at over 100 education centers which provide searches of the ERIC data base. None of this activity, of course, affects your copyright.

The purpose of the Speech Communication Module of ERIC/RCS is to discover and evaluate materials in our discipline for entry into ERIC. It is an important task, since we are developing an information source, not just for current users, but for future researchers. you can assist in this effort by submitting other documents you have authored, or by recommending materials by others you believe should be entered into the ERIC system.

... AND

John Wright, California State University, Fresno, California who is the W.S.C.A. Archivist will now be adding the W.S.C.A. Freedom of Speech Newsletter to our Archives.

Senate Bill #1 and House Bill #3907 is available from your representatives in Congress. Those concerned about this Legislation will find the Los Angeles Times Editorial of December 28, 1975 - "Poison in Sugar Coating" - of interest.

* CONVENTION MINUTES *

FREEDOM OF SPEECH INTEREST GROUP

The meeting of the Freedom of Speech Interest Group was called to order by Vice-Chairperson John Hammerback of California State University, Hayward, at 5:00 p.m. on Monday, November 24, 1975, in the Saturn I room of the SeaTac Motor Inn, Seattle, Washington. There being no old business, the Chair moved directly to new business. As the first item Hammerback automatically became Chairperson, and, without a dissenting vote, Ray Weisenborn of Montana State University was elected Vice-Chairperson and Jack Samosky of California State University Hayward, Secretary of the Interest Group.

Motions passed: (1) Jack Healy of California State University, LongBeach, moved that Freedom of Speech Interest Group members who undertake publication and/or distribution of the Freedom of Speech Newsletter shall be designated Associate Editors; (2) Lloyd Crisp of Oregon State University moved that the Editor of the Freedom of Speech Newsletter shall be officially an officer of the Interest Group.

Lloyd Crisp volunteered to duplicate and distribute the February issue of the Freedom of Speech Newsletter.

Ray Heidt of Utah State University volunteered to duplicate and distribute the April issue of the Freedom of Speech Newsletter.

The following ideas were discussed as possible programs for the 1976 W.S.C.A. convention:

- the implications of stress
- co-sponsor with R.P.A. (Bicentennial; revolution; agitation)
- video and copyright (with Mass Communication)
- fairness doctrine
- campaign rhetoric
- "live" case studies
- Feminist movement
- F.B.I., C.I.A.
- Lawyers and free speech
- use of human subjects in experiments; possibly co-sponsor with Behavioral Science as a discussion or a debate
- progress report on free speech as being taught; possibly offer a workshop on teaching free speech.

Respectfully submitted,

Jack A. Samosky
Recording Secretary
California State University, Hayward

WHAT IS ACADEMIC FREEDOM FOR?

by

Ralph Ross, Ph.D.

Hartley Burr Alexander Professor
of Humanities
Scripps College
Claremont, California

"Higher education is notably concerned with cultural criticism and exploration of alternative possibilities of thought and conduct. Hence its special need for academic freedom."

"The formation of a cultivated and effectively operative good judgment or taste with respect to what is esthetically admirable, intellectually acceptable and morally approvable is the supreme task set to human beings by the incidents of experience."

--John Dewey

"To like and dislike rightly is the goal of all culture worth the name."

--Bernard Bosanquet

"The rulers of the state have said that only free men shall be educated; but Reason has said that only educated men shall be free."

--Epictetus

The three writers quoted above are thinking, I take it, of the results of education, in the fullest sense of that word. Notably, they do not use the word "truth," although Dewey's phrase "intellectually acceptable" comes close. I shall argue that the standard definitions of academic freedom, which have to do with truth, are too narrow, and that truth is an indispensable, but not sufficient goal of both academic freedom of education. I shall also hold that academicians should be free to teach some, but not all truth, as they understand them. The basic answer I will give to the question which is the title of this paper is that academic freedom is for the sake of learning. And that will lead to an answer to the question which is the title of this panel. There are limits to academic freedom; those limits are discovered when we decide what it is that ought to be learned in the academy and what ought not to be learned there. Some things should be learned elsewhere and some things should probably not be learned at all.

Academic freedom is usually defined as the freedom of the teacher to speak the truth, as he understands it, about a subject on which he is qualified. And what qualifies one? Advanced degrees, perhaps, but if one has no academic post, the issue of

academic freedom is not relevant to him. One who has an academic post, however, is presumed to be qualified in the subject he is employed to teach, whatever his degrees. Thus the matter of qualification becomes trivial. A teacher should have academic freedom in the subject or subjects he teaches.

The reason that employment to teach something presumes competence to do so is that we assume the teacher is qualified by his training before his employment as a teacher or he would not have been employed. Yet that is by no means always the case, even when the teacher has the Ph.D., and we probably all know of such cases, although we will not actually utter names in public. Further, not having the Ph.D. by no means bespeaks lack of qualification. Here we can use names. Geroge Lyman Kittredge and Frederick J. E. Woodbridge, of Harvard and Columbia, respectively, both remarkable scholars, were without Ph.D.'s. Both were reputed to have said, in later life. "I would be glad to take the degree now, but who could examine me?" Richard P. Blackmur of Princeton, an eminent literary critic, did not even have a bachelor's degree. And insistence that a man who is employed to teach something he is certified by academic degrees to teach should teach nothing else, no matter how much he has in fact learned about it, can be an attention to the letter of the law that destroys its spirit. When Willaim James tired of teaching psychology, saying that was for Germans who had more sitzfleisch than he, and asked to teach philosophy instead, Harvard would not permit him to do so. Only after he had dickered for some time with Johns Hopkins for a post in philosophy did Harvard relent. I am by no means arguing that any teacher is competent to teach anything at all, only that formal qualifications should not replace educated judgment about who should teach what.

The rest of the definition of academic freedom is too narrow in making truth the only concern of the teacher that needs defense. The teacher teaches how to learn as well as what he thinks he has learned. He may train students in sensitivity and response, moral, aesthetic, and scientific. He may explore meanings and possibilities. He may find it effective to play the devil's advocate, ingeniously defending what he thinks false so that the student may learn to criticize, to analyze, and disprove. And he may engage in intellectual play to show the delights of mind. On the other hand, sometimes when he speaks the truth he makes it less likely that some other truths will be spoken. This is perhaps so when he teaches rhetoric or advertising as arts of persuasion, showing correctly how to make the weaker case appear the stronger.

Academic freedom, then, is something like the freedom of the teacher, within the strict limits of professional ethics, to teach as he thinks best. The concern of the teacher is for both the student and the subject. He wishes to understand the subject and to advance it and he also wishes to make the student capable of learning it. Both teacher and pupil are students and both should be free to learn. The Germans, traditionally, talked about freedom to learn as well as freedom to teach, Lernfreiheit as well as Lehrfreiheit, the student's freedom and the teacher's. Americans have defined academic freedom as freedom to teach. But what is that freedom for? The question may seem objectionable to those who think freedom is an end. Of course, freedom is good, and of

course the academic profession would lose its charms if there were no academic freedom. But a community would have to be amazingly urbane and generous to support academic freedom because the professor enjoys it so much. If the larger community supports it at all, it is because some of them see it as necessary for learning. The freedom to teach and the freedom to learn are intertwined. We teach for the sake of learning, and we must be able to teach freely so that learning may be free.

> "Because academic freedom is necessary to learn freely and well, and because the academy is concerned with some kinds of learning and not others, academic freedom is limited to academic learning."

Clearly, part of the student's freedom, and ability, to learn depends on his mentor's ability to teach freely. Constraining the teacher is like hiding library books and removing their titles from the card file. If the hidden books contained one interpretation or explanation of something, then all the student could learn would be opposed interpretations or explanations. In a properly totalitarian library the hidden books have all been destroyed and they were the ones that contained all interpretations and explanations except that single one to be found in the books on the shelves. Even when the teacher is given the choice of expoinding a current orthodoxy or being silent on the subject, his choice of silence may soothe his conscience but help the student little. The student is very likely to learn something about any orthodox position from other sources, and his teacher's silence will only occasionally be construed as opposition. Even if it is, the teacher's reasons are all-important and they will not be heard. Silence often gives its covert assent to falsehood. Thus the student cannot learn freely when his teacher cannot teach freely.

Before developing this position, it is important to state that there is constant pressure on academic freedom throughout this country, and that it comes from one's colleagues as well as one's administrative superiors. To be free to do something means at least that one will not be restrained from doing it. Restraint is by no means only bonds and shackles; it is also intimidation and reprisal. We usually fight for academic freedom when a teacher loses his job as a result of saying something he is entitled to say. Such a case may even be fairly clear. But nothing can readily be provedin cases that are far more common, in which there is no threat to the job, especially of tenured professors. Yet what of promotion, what of tenure, and what of salary increases when they are not automatic? What of the many little plums a professor can get with the help of colleagues and administrators? All of these are constantly at stake when a man has a point of view. Distinction protects the few, though notalways fully. The others will have to accept some reprisal whenever they take an unorthodox stand. Bertrand Russell was prone to exaggerate the matter, but it is interesting to read what he wrote in his autobiography about the University of California at Los Angeles, where he taught for a while: "If a lecturer said anything that was too liberal, it was discovered that the lecturer in question did his work badly, and he was dismissed."

As for his own experience at the University of California at the height of his very great reputation: "Towards the end of the academic year 1939-1940, I was invited to become a professor at the College of the City of New York. The matter appeared to be settled, and I wrote to the President of the University of California to resign my post there. Half an hour after he received my letter, I learned that the appointment in New York was not definitive and I called upon the President to wirhdraw my resignation, but he told me it was too late. Earnest Christian taxpayers had been protesting against having to contribute to the salary of an infidel, and the President was glad to be quit of me."

The freedom to learn should be thought of as a necessity for both students and faculty. Every faculty member knows that the direction given him by a teacher, the filling in of gaps, the bibliography, and the clarification of ideas governs effective learning. The quality of education in any society is greatly responsible for its health. Arnold Toynbee thought that the Roman Empire and two Chinese dynasties disintegrated, in part, because formal education was impoverished in the course of wider dissemination. "It degenerated into a formal education in book learning divorced from a spontaneous apprenticeship for life. . . In fact, the art of playing with words was substituted for the art of living." Be that as it may, it is not just what is learned but what goes with the process of learning that molds the character of a society: the ethic of inquiry and the ethic of controversy are readily internalized when the level of education is high. What we witnessed in the 1960's in our universities was the invasion of the academy by the spirit of the barricades. What we seek is the infiltration into society of the ethic of learning.

Much that we learn is not taught in the academy and cannot or should not be. What ought we to learn that can and should be taught there? Essentially,a culture; that has been, and still is, the primary task of education. But formal education does not impart aspects of the culture whcih are transmitted by conditioning, habituation, and special training, vocational, religious, etc. It is limited to the products of the mind and the emotions in knowledge and expression. Its content keeps changing because the culture is changing. There is constant growth in knowledge and change in expression. The new is subject to varied interpretations and, because of the new, the old needs reinterpretation. The nature and meaning of ancient Jerusalem and Athens change almost as much as art forms and scientific knowledge change. The freedom to learn is freedom to understand and internalize one's culture, to learn and use other cultures, to be able to organize aspects of the culture to yield selected ends and, as a result of these, to grow and develop one's self. Higher education is notably concerned with cultural criticism and exploration of alternative possibilities

> "The purpose of inquiry is to attain truth and its ethic is not just a good in itself, but a way of serving truth. Violations of that ethic are beyond the limits,of academic freedom."

of thought and conduct. Hence its special need for academic freedom.

Those totally without the learning provided by schools and libraries or with that smattering that brings misunderstanding, are deprived of all but rudimentary aspects of their culture and some may become barbarians within it, in Ortega's sense. Others may, of course, lead useful and pleasant lives, providing society with the stability that comes from those who liek and enjoy the homely details of the culture and want to preserve them against change. But those who become the barbarians within the culture plunder and ravage it, as though it were indestructible. They seek wealth, power, and advantage in order to enjoy them personally, or they try to destroy without any idea of what to create in its place. Responsibility to maintain and enhance the culture is beyond their ken. It is a terrible commentary on our colleges and univesities that so many barbarians, of both types, have attended them.

By this point in the argument we should have the clue to the limits of academic freedom. Because academic freedom is necessary to learn freely and well, and because the academy is concerned with some kinds of learning and not others, academic freedom is limited to academic learning. I have already pointed to countless non-academic things, but there are still other things one can learn in life: to cheat, to rob, to corrupt, to abuse power. There are eager learners of these things and excellent teachers. Those teachers are not granted academic freedom. The American Association of University Professors should not defend academic freedom for Fagin, even if he had an endowed chair at a great university. And of course there are the equivalent of academic Fagins. They doctor evidence, plagiarize, lie, and fake results. In short, they violate the ethic of inquiry, and they may teach others to do so, too. The purpose of inquiry is to attain truth and its ethic is not just a good in itself, but a way of serving truth. Violations of that ethic are beyond the limits of academic freedom.

If such examples seem obvious and infrequent, what of attempts by the teacher to persuade students to a point of view or a conclusion by hiding the existence of intellectual opposition, or at least never mentioning that it exists? What of the distortion of opposing views so they seem silly or patently false? These are more common than they should be, increasingly common, it seems to me, and they, too, are outside the bounds of academic freedom. I do not mean that a teacher is not free to argue his position, even passionatley, but I do mean that when he does to he should be more careful then ever that his opponents are clearly visible, their beliefs stated accurately, and their works accessible. There is no academic freedom to persuade by any means whatsoever, any more than there is academic freedom to breed crime.

The limits of academic freedom are also breached by practices that intimidate or penalize students for disagreement. Lowering grades, or even ridiculing students publically for disagreement expressed in class, on papers, or in examinations is academically unworthy. Not long ago I spent an afternoon with a professor from a university in East Germany who assured me he was very patient with

students who did not accept the principles of dialectical materialism - religious students, he said, had a special problem with those principles--and if they argued against them in an examination he would instruct them again and allow them to take the examination once more. It seemed, for he would not answer categorically although I kept asking for a yes or no, that if a student continued his intellectual dissent, he would fail the course. "You see," said my foreign colleague, apparently unaware of how very foreign he was,"he would be wrong."

It may be that a student is simply wrong if he thinks 7 + 5 = 15 or that Aristotle was Plato's teacher, and equally wrong if he says Plato was an empiricist in the ordinary use of that word. But if he argues intelligently about a theoretical matter, he should be evaluated by the intellectual skills he displays, whether or not he disagrees with his teacher's conclusions. Although we cannot claim academic freedom to penalize a student we thing wrong except about matters of fact or logic we may tell him we think him wrong and, more important, tell him why.

Again I am limiting academic freedom to what helps student and teacher learn freely and well, and arguing that what interfers with that kind of learning should not be protected by academic freedom. Cheating, persuading by unfairness and refusal to join issues, intimidation and inflicting penalties on students for disagreement, are genuine interferences with learning freely and well. I have added to the ethic of inquiry what may be a special case under it, the ethic of intellectual controversy. Both ethics, of course transcend the classroom. If Einstein and Bohr disagreed, one would not expect them for that reason to deride each other's abilities, that is, in effect, grade each other down. Nor are teachers under the umbrella of academic freedom when they do so to students.

More difficult is the matter of the social consequences of ideas uttered freely in the academy. It is part of education to examine actions and their consequences and to examine alternative courses of action, but it is not a part of education to teach or to take action, except in the matter of research, which is action taken for the sake of learning. Yet spoken or written ideas may lead to action that yields morally repugnant consequences. I have not examined what is called academic freedom to write or publish because it is a different idea, perhaps an erroneous one. Publishing is in the public domain, outside the academy, and there are no captive readers; published work comes under the laws of nation and state. It enters the academy only when it becomes required reading, and especially if the student will be examined on it. Then, I should think, it is to be treated like academic freedom of speech.

Before one can deal intelligently with the question of morally repugnant consequences, it is perhaps needful to ask several questions about academic freedom. Does it extend only to what the professor says in the classroom,or does it cover what is said in one's office to students, what is said to students anywhere on campus, what is said on campus to colleagues, or at faculty and

committee meetings, what is said on campus to anyone, or what is said in speeches on one's own or other campuses? Does it continue to protect the professor's speech when he is not on campus, when he makes speeches or attends meetings as a representative of his institution, or when he does those same things in a personal or political capacity? Finally, does academic freedom protect him when he speaks privately, whether on or off campus?

The answer to all these questions depends on a recognition that academic freedom comes with one's status in the academy, or as a representative of it, and not with one's person. As citizen or resident one is governed by the laws of the land and protected in his speech by constitutional guarantees, but he is not endowed by nature or government with academic freedom, nor is he burdened with its obligations. Academic freedom protects the teacher in saying what he thinks will best advance learning, but it obligates him finally to speak what he thinks is true about the subject he teaches, and to defend it. And this with one important qualification: the teacher is entitled to say, "I don't know," or "I haven't yet made up my mind," statements which might have unpleasant consequences for people in some kinds of nonacedemic work.

Normally what is said in the classroom does not have immoral or dangerous consequences. But on occasion it may. Thus it is probably necessary to apply Holme's clear and present danger ruling: "The question in every case is whether the words used are used in such circumstances and are of such a nature as to create a clear and present danger that they will bring about the substantial evils that Congress has a right to prevent. It is a question of proximity and degree." That is not an easy rule to apply because, like much else that makes good sense, it is inexact and and requires thoughtful judgment in each case. Yet it is reasonable that what one is free to urge under some circumstances, he may not be free to urge under others. Not only that: the manner of utterance alters the meaning of what is said and must be taken into consideration. It is one thing to state an opinion and another to incite a riot, but both may be done with the same words. The former is protected by academic freedom; the latter is not.

Next, even in the expression of opinion that creates no danger, circumstance plays a role. Academic freedom is not intended in general to restrict the freedom of speech guaranteed by the Constitution, but sometimes it does and should. If an event in international relations impels the professor to state his support or condemnation of the foreign policy of the United States, or of any other country, he is as free as any other person in this land to do so. But is he exceeding the limits of academic freedom if he talks exclusively on that subject for the next 2 weeks in a class in chemistry? That is, does the doctrine of academic freedom permit a teacher to deprive students whom he is paid to teach chemistry of their freedom to learn what they have chosen to learn in the time designated for them to do so? I do not think academic freedom covers that case. Not only is the teacher not doing what he is employed to do, but he is interfering with that freedom to

learn which is the goal and justification of academic freedom. There is even an abuse in power in expressing his opinions (unqualified opinions, in this case) to a captive audience. The professor has every right, as resident or citizen, to speak his mind, but elsewhere, or at another time, when only those who choose to hear him are in attendance.

On the other hand, if anyone is officially invited to an institution of higher learning to speak, then it seems to me academic freedom is conferred on him, whether he is an academician or not. The invitation is implicit recognition that those who invited him want to hear him talk on the subject chosen because of who he is or what he has to say, and expect to learn something whether they agree or disagree. Those who do not want to listen need not attend. Those who wish to protest may. They may even protest by attending and then rising and walking out. But to shout the speaker down is a violation of his academic freedom and that of all others in the audience. For faculty to shout him down shows disdain for the academic freedom that protects their own utterances and is a censorship of learning unfaithful to the academy whose officers they are.

S.C.A. COMMISSION ON FREEDOM OF SPEECH

*One year remaining - Thomas Tedford, Chairman, Dept. of Drama and Speech, University of North Caorlina, Greensboro, North Carolina 27412

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A SOCIOLOGY OF FREE SPEECH

by

Ray Heidt, Ph.D.
Utah State University

"...all human behavior is motivated by a survival drive, or a tendency to maintain a favorable status quo."

In a metaphorical sense, early man found himself in an environment beset with natural dangers; threats to his survival. While man coped with the hostile environment on an individual level he learned that there was great survival benefit in social structure.[1] He also developed the use of tools to help him cope with his hostile environment -- probably the earliest tool of both man and animals was the of models, a later outgrowth of which was language.[2]

The combination of social structure and language models allowed man to progress far beyond his animal co-inhabitants in coping with the environment; however, it led to a complication. With the variety of viewpoints possible, there was bound to be conflict -- with the desirability of any one viewpoint not necessarily apparent.[3] A method of resolving conflict became necessary that would both (1) allow all viewpoints to be heard, and (2) make it likely that the best idea would emerge triumphant. Man's best proposal so far -- persuasion in a democratic social structure -- does not guarantee achievement of the above goals but makes their achievement more likely.

Early in his appearance on the planet man developed language as a tool for the controlling of his environment. It is probably that he first communicated merely on the adumbrative level much as animals do; however, with the development of oral signs and symbols he was able to control his environment as no animal ever would or could. While the development of written language aided in that it allowed him to accumulate ideas much more efficiently than before, with spoken language he was able to control his environment in three basic ways:

1. Directly, as a verbal order or command.
2. Indirectly, as he asked questions about the environment.
3. Indirectly, as he evaluated the total adumbrative situation in which the oral communication act takes place, including feedback.

Over a period of time he developed an appreciation for form not only in words but in propositions and propositional relationships as well. It has been suggested that the original idea of a syllogism developed from the concepts of metaphor and contrast.[4] In argumentation, man searches for those language forms, propositional forms, or "argument forms" which allow him to make the most accurate predictions the greatest number of times. Through experience man has learned that the highest degree of predictability derives from situations when he can phrase his words or propositions into certain

proven (pre-tested) forms that relate to each other in such a way that he can assert that "if my premises are true, and reasoning formally valid, then my conclusion necessarily follows." He is not necessarily asserting that he is betting his life on the outcome -- experience has taught him that he makes mistakes, or that nature has a way of doing the apparently irrational[5] -- but if the situation is extreme enough he will behave in an extreme fashion, possibly betting his life if the odds are high enough.

The usefulness of traditional logical forms is that they are tested ways of dealing with language. However, for an argument to be valid it must have both formal and material validity. Traditionally, the determination of material validity was achieved by a kind of intellectually reflective rumination that yielded a "yes" or "no" which corresponded with true or false, and we thus have logicians qualifying their claims with "if my premises are true. . . !" Of course, man did not always have these forms, nor did he necessarily use them once he had them.[6] This is to say that man had (and has) the ability to see intuitively the survival issues inherent in arguments or problems that affect his hierarchy of needs. Therefore, it is not necessary for a speaker or communicator to state every proposition in an argument; in fact, this feature enabled Aristotle to say that it is advantageous to suppress a part of the formal argument as in the enthymeme.

Persuasion -- in this scheme of things -- becomes a matter of demonstrating the survival benefits of a proposition, argument, or argument chain to a particular audience. To the extent the audience perceives a survival benefit they had been unaware of and make some measurable modification of their predictable behavior -- they have been persuaded.

There are three traditional ways we may so demonstrate survival benefits for purposes of persuading.

First, we may appeal to our own or to another person's record in making accurate predictions about survival benefits.

Next, we may appeal to what we know our audience believes to be useful or accurate in making predictions.

Last, we may appeal to the predictions we can make by using models -- tested or not -- whether the model be mathematical, logical, or whatever.

Persuasion is audience-oriented but reality is independent of man. Therefore, I -- as a politician -- may convince-persuade the President of the United States that a pre-emtive nuclear strike against Russia is the best thing to do for survival, but I could be wrong! But reality is never wrong -- reality is the fact of survival or non-survival. And the reality of life is that the United States or Russia or whomever your candidate may be is no more destined to be remembered 2,000 years from now as the centerpiece of history than was Carthage or the Zimbabwe. Shelley dramatizes the lost civilization mythos in Ozymandias, where he depicts a culture and people that ceased being able to make accurate predictions about their environment.[7]

Eventually, all three of the appeals are based on audience perception; therefore the rhetorician should make his primary concern that of audience analysis. This is not to say that he should ignore ethos or logos, but rather that he must concentrate on how various receiver-audiences perceive survival appeals based on authority or on modular predictions.

I believe that all human behavior is motivated by a survival drive, or a tendency to maintain a favorable status quo. Considering the natural dangers of things as they are, there is a survival benefit in communication inasmuch as it allows us to determine the status of our environment and to exercise control over it. Since social structure has a survival benefit, and since many courses of action are open to man, communications may be conflicting and it becomes important for man to determine which of the various conflicting predictions about his environment are the most accurate. The process whereby a source tries, by the use of language, to structure human social groups and their behavior in conformance with his view of how best to survive, is called persuasion.

But for human survival we need something more than persuasive communication -- we must have freedom of speech. I suggest that the essential characteristics of freedom of speech are justice and democracy.

All men want justice and democracy, the only controversy is as to what the words mean.

The New Rhetoric suggests a modern definition of justice -- "beings in the same essential category should be treated in the same way."[8] If speech is to be free everyone must be as free as anyone else in the same category to speak; the purist may even argue that since all people are in the same essential category of being human, all humans should be equally free and have equal opportunity. If free speech does not contain this element of justice it not only is not "free," it also has diminished survival value because we cannot know which suppressed person had the correct solution to our problem. For speech, debate, and dialogue to have any survival value for a society all must be free to speak; to do other wise is to limit our range of considerations, and the law of probability favors those who have the greater range.

I suggest that the essential characteristics of freedom of speech are justice and democracy.

A democracy is a society that holds as an ideal the idea that all members internalize justice to the point where everyone treats everyone else in same way; that is, I respect your rights and you respect mine. I respect your right to free speech and expect the same from you.

If mankind is to survive its genius for weaponry we must devise a problem-solving tool other than weapons. For the "best minds" to talk it up is fine, but we need all the help we can get. True freedom of speech -- a compound of persuasion, justice, and democracy -- is a must for survival.

END NOTES

1 Jonathan Norton Leonard, "The Power of the Group," Life Before Man (New York: Time-Life, 1972), 123ff.

2 For a discussion of models and communication see Joseph DeVito, The Psychology of Speech and Language (New York: Random House, 1970), pp. 94-106.

3 Robert Oliver, Dallas C. Dickey, and Harold P. Zelko, Essentials of Communicative Speech (New York: Dryden Press, 1949), p.215.

4. Suggested by Dr. Jack Ray in a seminar on argumentation at San Jose State College in 1968. Ray suggested that the basis is Plato's idea that the foundation of "rational thought is the mental recognition of sameness and difference." The movement from this to metaphor and contrast, to analogical reasoning, to the syllogism is obvious.

5 Thomans M. Scheidel, Speech Communication and Human Interaction (Glenview, Ill: Scott, Foresman, 1972), p.203.

6 George A. Miller, Language and Communication (New York: McGraw-Hill, 1951), p.226.

7 There are many such lost civilizations. Those interested should read James Michener's Caravans, pp. 181-182; or Henning Haslund's Men and Gods in Mongolia, pp.106-110, 176.

8 Ch.Perelman and L. Olbrechts-Tyteca, The New Rhetoric (The University of Notre Dame Press, 1969), p. 219.

--- Editorship Change ---

The Commission on Freedom of Speech of the Speech Communication Association announces changes in those who will be editing the following publications:

Free Speech -- Ruth McGaffey, Department of Speech Communication, University of Wisconsin - Milwaukee, Milwaukee, Wisconsin (Newsletter of the Commission on Freedom of Speech)

Free Speech Yearbook -- Gregg Phifer, Department of Speech Communication, Florida State University, Tallahassee, Florida (Annual Research publication of the Commission on Freedom of Speech)

A QUEER INTERPRETATION OF THE FIRST AMENDMENT: "HOMOSEXUAL ACTS BETWEEN CONSENTING ADULTS

by

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"When we are talking about the rights of gay people, we're referring to an area of personal freedom for a significant portion of U.S. citizenry."

The terms "homosexual" and "homosexuality" are distasteful to me, just as they are to other lesbians and gay men who deny that clinical and patriarchal terminology and particularly the sin-crime-sickness judgments that attend those terms. Personally, I identify as a "lesbian" because that term defines a range of experience that is very different from that of my gay brother. "Fay" to me most often refers to men but is a good covering term for lesbians as well who feel comfortable with it. Further, the term "homosexual acts" is but another way of describing certain sexual acts---explicitly oral and anal sex or in some cases any sexual expression other than that which occurs in the "missionary position." Those "certain sexual acts" are common among both heterosexual and homosexual persons. They might be called "humansexual acts." I resist having to talk about homosexuality or lesbianism as if it were only a phenomenon of sexual expression it is far from just that. But we must speak of it that way for a while and we'll have to use the terms "homosexual" and "homosexuality" because our language hasn't progressed enough yet. Herein then, "gay" or "homosexual" will refer to both women and men who discover their primary emotional, erotic, psychological, and social interest to be in a member or members of the same sex.

When we are talking about the rights of gay people we're referring to an area of personal freedom for a significant portion of U.S. citizenry. Estimates of the size of the homosexual population in this country range from 5% to 20%, an elusive figure simply because the overwhelming majority of homosexuals do not (and for good reason) affirm that fact in public. A minister friend of mine has observed that if the citizens of this country were to turn overnight from white or black or borwn to shades of GREEN according to the amount of sexual experience they have had with members of the same sex, we would all be in for quite a surprise tomorrow morning. There would be lots of shocked wives and husbands, even, waking up to a deep green figure on the sheet beside them.

First I will briefly review the status of gay people's civil rights as in the past few years those rights have been fought for legislatively; I'll show as well out of what context I believe the Supreme Court of the United States will probably address the issue of rights for homosexual people. Second I'll share what I believe are the real roots of the violations of human rights for both gay people and women.

There is nothing in the constitution of our country and no national statute that makes homosexuals criminals---or "homosexual acts" criminal acts. There have been, however, at one time, statutes in every state legislating against those specific sexual acts, oral and anal intercourse. For that crime in those states it has been to my knowledge without exception homosexuals and among homosexuals exclusively homosexual men who have been harassed or arrested while a vast heterosexual population exercising that same creativity in their sexual expression have not even been aware that they have been engaging in criminal acts. Walter Barnett, author of Sexual Freedom and the Constitution, is fond of observing that if the laws that have been in effect for so many years in the state of California against human sexual expression were technically enforced and enforced without bias (that is, not just exclusively in the arrest of gay men) then 98% of California's population would be behind bars. The other two percent, he maintains, simply have no imagination.

It's necessary to note here that even gay men are not usually arrested for the sexual acts themselves but rather for "solicitation in a public place to engage in lewd or dissolute conduct." That is, it's a type of communication which is the direct cause of their arrest. Eighty-five percent of the bookings of homosexual men takes place in California under Section 647 (a) of the state's penal code which restricts not the sexual acts but he asking of someone to commit those sexual acts. It's an irony that with the law change in January of 1976 it will be legal in California to indulge in "lewd and dissolute acts" but still be illegal to solicit to do it. A number of states passing decriminalization statutes find themselves facing this paradox.

It is intolerable that these state laws make us (and heterosexuals) into criminals. More devastating, however, is the fact that these laws ahve been the basis of the denial of the gay person's civil rights. Until 1961 when Illinois instituted its sex law reform decriminalizing oral and anal intercourse, homosexuals were "unapprehended felons" in every state. (Many heterosexuals were, too, but no one made any note of that fact.) Thus employers had ample excuse for firing us or for not hiring us in the first place; landlords and realtors, banks and insurance companies, could refuse us housing or financial help or coverage if we were suspected of being homosexual. We were, after all, criminals. That criminal status drove a whole society of us into hiding, generating and perpetuating myths and stereotypes about homosexual people that robbed us of dignity and humanity, to say nothing of our equal rights.

Many homosexual people feel that such laws have intesified for all gay people a psychological oppression unequalled in history.

Thanks to some long overdue research on the nature of human sexuality, to some giant strides in law reform in other countries, and to the energy and insights of the women's liberation movement and gay liberation, some consciousness has been raised. By 1975 eight states and the District of Columbia had decriminalized between consenting adults the sex acts in question (Colorado, Connecticut, Delaware, Hawaii, Illinois, Ohio, Oregon, North Dakota). Momentum has gathered and in 1975 alone five states joined the list (Arkansas, California, Maine, New Mexico, Washington). Ruther, a number of cities have passed anti-discrimination ordinances for gay people (Ann Arbor, Berkeley, Columbus, Detroit, East Lansing, Ithaca, Minneapolis, Palo Alto, Portland, San Francisco, Seattle). Last March Representative Bella Abzug introduced a federal bill to amend the 1964 Civil Rights Act by adding "affectional or sexual preference" to race, religion, and sex as areas of proscription against descrimination. She is backed by the sentiment of a host of national professional organizations ---like our own which has not yet done so---who have made policy statements in support of non-discrimination against gay people.

The battle is also being waged throughout the judicial system with the testing in courts of the legal sanctions against homosexuality. The Supreme Court of the land, when it finally rules in the case of a gay person, will probably do so on the basis of the Fourteenth Amendment (guaranteeing equal treatment for all citizens) and on the basis of the rights of privacy, i.e., on the right of a person to be left alone by the government to live her or his life as she or he sees fit. The boundaries of that privacy seem to be the legal battleground: under what conditions are a person's rights to privacy restricted? So far the answer seems to be that a person has the right to privacy unless she or he is doing something so threatening to the government that the government is compelled to intervene.

> The fundamental violation of the gay person's rights lies in that very tricky and most volatile part of the First Amendment which would separate church and state.

There is nothing in the First Amendment that directly addresses the matter of privacy. However, when decisions have come down from the high court regarding an individual's right to privacy, the justification has found its ground either 1) in the presumption that privacy is "implicit in the concept of ordered liberty" as guaranteed by the constitution and thus needs no specific constitutional reference, or on the grounds that 2) there are certain zones of privacy specified by the constitution, specifically the "zones" of speech (stated in the First Amendment) and of association (implicit in the First Amendment).

Several precedent-setting decisions on the part of the high court have already paved the way for what many gay groups believe will be a ruling for a homosexual person's right to privacy. GRISWOLD vs. CONNECTICUT in 1965 established any married couple's right under guarantees of privacy to use whatever bith control they wished. In 1969, STANLEY vs. GEORGIA, the court ruled that any single citizen had certain rights of privacy, in this case the right of private consumption of a pornography collection. In 1971 EISENSTADT vs. BAIRD

established (by precedent of GRISWOLD and STANLEY) that the right of use of birth control had nothing to do with marital status, that use whatever birth control they chose in the privacy of their own bedroom.

It seems only a matter of time now before, for instance, a gay Texan or South Carolinian will ride the appellate route up to the nine justices in Washington. Many argue that if two unmarried consenting adults are allowed the privacy of the bedroom then by the equal protection clause of the Fourteenth Amendment, so a gay citizen will be.

Gay people have clearly had to fight both legislatively and in the courts for rights that accrue to heterosexual persons just by virtue of the fact that they are heterosexual. It has been and is still being a long hard battle. What we have discovered in the course of that battle is that something more fundamental than laws is at work against gay people. That something is a righteous and deeply entrenched mindset that brings us closer to what I believe are the real roots of oppression. The fundamental violation of the gay person's rights is not in the violation of her/his freedom of speech; nor is it in the violation of her/his rights of assembly or association; nor is it even in the violation of her/his privacy as "implicit in the concept of ordered liberty." Though it will never be argued from this posture, the fundamental violation of the gay person's rights lies in that very tricky and most volatile part of the First Amendment which would separate church and state. Our legal system is based on British common law which itself derives from the Magna Carta. That document draws its precepts as well as its language right out of the bible and Judeo-Christian teaching. Sanctions against human sexuality and particularly homosexuality have ridden the partiarchal path from the bible right into our state laws. The legislator as a rule fights extraordinarily hard to keep those proscriptive laws on the books; when we ask him why he fights so hard against gay civil rights we find ourselves staring eyeball-to-eyeball with the church and the synagogue.

It goes like this. The legislator tells us first that he votes against decriminalization because he believes homosexuality is sick. We then shift our query to the American Psychiatric Association, the ultimate source in the onmenclature of mental illness. After a long struggle there, that association changes us from the category of "psychiatric disorder" to the healthy category of "variant." Now the legislator can't lean on that one any more. We confront him again. This time he flees to the myths abounding from his own ignorance (and of course here he speaks only about homosexuals as men since women seem inconsequential to him): he tells us, for instance, that homosexuals seduce children, that we aren't "real men" (sic), that we are bad business risks, that we are all hairdressers, interior decorators, or ballet dancers. So we show him that the men imprisoned for sexual abuse of children are over 90% heterosexual men, usually fathers or other family members. We introduce him to homosexual Sergeant Matlovich who has three tours of duty in Viet Nam, A bronze Star, a Purple Heart, and an impeccable military record; then we dare him to decriminalize homosexuality so the thousands of other "real men" in the military can reveal their true identity; we

present him with the statistics on our incredible financial stability, in some cities far outstripping that of heterosexual people; and we point to the fact that right there in electoral politics with him are avowed homosexual people---Elaine Noble of Massachusetts and Allan Spear of Minnesota (with probably hundreds more in the closet of whom I know four personally). We remind him that far from being restricted to jobs like hairdressing homosexuals inhabit every profession.

The legislator pales. Then, in his last ditch stand he says, "It's a sin." A sin. An abomination unto the Lord. Sodomy. Unnatural. Blasphemous. Not in the order of nature or of creation. Perverse. That's why he thumps his bible in Sacramento and shouts threats of fire and damnation against sex law change. That's why the state of Kansas did indeed change its laws to allow oral and anal intercourse but only between members of the opposite sex; homosexuals are still criminals. That's why, many observe, when Idaho passed its brand new penal code which included a sex law change heavy Mormon influence pressured for the referendum that reversed the legislative decision. That's why in California strong church groups almost succeeded in getting an initiative on the fall ballot to reverse the passage of that state's decriminalization act.

It will not do to talk to gay people about the separation of church and state. As far as our freedom is concerned, this nation is still a strong theocracy. What is legislating against us is not just laws derived from the Judeo-Christian tradition but the whole Judeo-Christian mindset and value system which is so deeply entrenched in every citizen of the western world---even in athiests and agnostics---that there seems little hope ever of eradicating its power. We can now better identify our real antagonist: the battle is against what's in the legislator's head, against what's in the judge's head, and what's in their heads is the psychological marriage of what is legal to what is godly.

So we present the legislator with the twelve references to homosexuality in the bible and show how highly respected biblical scholars have proved each of them to be misinterpretations or mistranslations; he still doubts. We present the evidence that homosexuality was once common among Hebrew tribes before the decimation of the Babylonian exile; after that, if sanctions against homosexuality existed at all they were temporary measures designed to restore numbers, encouraging the Hebrews to copulate to populate. Our legislator still demurs. We present the overwhelming evidence of practice itself, the Kinsey reports and Johnson and Masters, the reality that what a healthy portion of all people practice is what he is calling "homosexaul acts"; still he won't buy it. We try patiently to explain that reproduction is not the only objective of sexual expression, that indeed, it has not been so for thousands of years---the double standard of sexual behavior standing in stark testimony to that---and that love and affection in something besides the missionary position are a part of most sexual expression in this country. Still, deep in his heart he feels that homosexuals--but not heterosexuals--are abominations unto the Lord and he casts his vote against us.

I believe our legislator still resists because of something even deeper than our religious tradition, and at this point, as we peel away the layers of resistance, I am overwhelmed by the similarity of gay oppression to that of women and must talk about them together. I cannot separate my lesbian-ness from women-ness. I am also aware that both women and gay people struggle against the same mindset that perpetuates other oppressions---racism, for instance. The difference, however, is that when we're talking about most other oppressions we're talking about a worldwide question clearly economic in nature; when we are dealing with women and gay people we're dealing internationally, all right, but we're not confronting economic oppression except as a symptom; we are dealing with psychological oppression, with the insanity of sex-role socialization. When we are in the sex-role ballpark we address not the most immediate bur certainly the deepest of human concerns and we reach most profoundly into the fears of western society. What we are dealing with in both the gay struggle and that of women lies deeper even than the Judeo-Christian value system; it is, I believe, the fear on the part of every self-respecting civilized man that he will be like a woman. Underneath that fear lurks something even deeper, another of those realities we've never faced in western civilization; we've never called it by name until the past decade. I suggest that that reality may be the bedrock of western civilization itself. Certainly it is evidenced most eloquently in the Judeo-Cristian tradition. The reality that afflicts me and all my sisters and my gay brothers is INSTITUTIONALIZED WOMAN-HATRED.

The reality that afflicts me an all my sisters and my gay brothers is INSTITUTIONALIZED WOMAN-HATRED.

I refer here not to the hatred of individual men for individual women, nor to the hatred of individual men for women in general. If those are realities then they must be identified and dealt with by individual men. I refer here to western society's hatred of women and I see it coming from women as well as from men and having a devastating effect upon men as well as upon women.

This societal woman-hatred is expressed in two self-perpetuating myths: the myth of the half-person and the myth of male superiority. The myth of the half-person begins at birth wnen as the perfectly healthy and potentially whole human child---at least bisexual and psychologically androgynous---our genetalia are identified. At that moment every institution in the system goes into high gear to guarantee first that both girl and boy children will ultimately be exclusively heterosexual, thus limiting their natural potential; second, those institutions relentlessly insist that a female child will have only certain qualities like intuitiveness, emotionality, and nurturance. She cannot have rationality, aggressiveness, and adventurousness because those characteristics are exclusively the male child's. Someday in the future these two half-persons are going to come together miraculously in that marvellous union we call heterosexual marriage and boom! They will suddenly be one person. There are hundreds of thousands of Americans every year testifying that it doesn't work that way, but the system fights hard and until recently the myth has

prevailed unchallenged. Men continue to believe that they do not have to be emotional because their wives "are" their emotion for them. The wife continues to think she doesn't have to think or to be strong because her husband is her strength for her. And there they are, neurotically dependent upon each other for their very life, and victims of the "death-cluth syndrome"---that in which one partner in either piggaback or full frontal attack leaps upon the other all teeth and fingernails and screams those immoral and immortal words, "I can't live without you!"

The other myth, the myth of male superiority, is a little more obvious. By its light even the best of women knows herself to be inferior to even the worst of men. The myth of male superiority puts values on the qualities attached to women and always those values are just a little less than those attached to men's qualities. It's okay to be nurturing but better to be adventurous, cute to subjective but more acceptable to be objective, very quaint to be intuitive but better to be rational.

So it is that through the perpetuation of these myths society's woman-hatred becomes more and more the norm. When we open our eyes to it, it's there in overwhelming abundance, not only in sexist jokes but in women's second-rate social and economic status, in our obliteration from history, in our media image, in our depleted self-image, in the way we laugh, the clothes we wear, the thoughts we think---or fail to think the way we walk--or fail to walk, the words we say---or fail to say, the jobs we have---or fail to have, the jobs we want---or fail to want. In short, there is a deep societal disdain of or at best a resigned tolerance of all that is womanly or womanlike.

Of that societal disdain we have drunk so deeply that our hatred of ourselves as women poisons our every thought and action; we are our own worst enemy, believing that we don't want to do self-fulfilling things because we believe we can't do them and believing that we can't do them because we've been so deeply programmed to believe that we shouldn't do them. With that societal disdain we have as women sprinkled our separate prisons of isolation thus securing ourselves from the other; and with that societal disdain of women the fires of competitiveness and corporate capitalism have been steadily fed until only now in these last years do we realize as women the extent of our complicity in the whole planet's pell-mell race to annihilation.

To the extent that the gay man does what only women are supposed to do---love men---and to the extent that he allows himself to touch something more than the "masculine" side of himself---his "feminine"---to that extent the gay man receives his share of society's woman-hatred. In fact, to the extent that any man refuses to remain a half-person, to the extent that he celebrates his capacity for wholeness within himself, to that extent any man can feel the effects of woman-hatred.

The lesbian, I believe, is for her part the antidote to society's woman-hatred. She has somewhere along the way said "no" to the sex-role that society has prepared for her. She has said "yes" to her own capacity to be more than what society calls "feminine"; she has rejected the myth of the half-person and embarced the potentiality of her wholeness, her intellect and her energy as well as her nurturance and relational capacity. She has begun to throw off the self-hatred and the woman-hatred. She dares to love other women,

dares to love herself, a woman. The lesbian to me is the very embodiment---the extreme, the superlative---of women's struggle against sex-roles. In the face of ten thousand years of woman-hatred the lesbian is the incarnation of the movement among women to love ourselves again, to love other women again.

Lest I arouse fears that I'm advocating that every woman leap immediately into bed with another woman let me clarify. That might be nice and exciting. The evidence is accumulating that when two persons of such tremendous sexual and emotional capacity as two women are thrown together in a loving sexual circumstance, the earth does seem to move off its axis. Lesbian sisters all over the world can testify to this. Still such experimentation is hardly an expression of lesbianism. A number of women are "trying sex" with other women these days, but that's certainly not lesbianism. Contrarily, I know women who have identified themselves as lesbians for years but who have never experienced a sexual relationship with another woman. I said in the beginning that I deny the patriarchal definition of a lesbian, that is, the sexual one; it is far too narrow. Lesbianism is a lifestyle, a mindset, a body of experience, and when it's tempered in the fires of feminism it is, I believe, the most formidable political posture that can confront the dominant culture. Any woman who with real political consciousness is moving toward her own self-love, moving toward overcoming her isolation from other women is, to me, moving toward the lesbian lifestyle and if she's really woman-loving and professionally and financially able to do so she won't mind being called a lesbian; in fact she will be glad to call herself by that term whether or not she has ever experienced what the patriarchy would define as the sine qua non of lesbianism, i.e,, a sexual relationship with another woman.

To summarize, then: by law-reform and court actions gay people---like women---are seeking to change the ways of the state; by changing stateways---by legislating some behavior---we hope to alter some folkways---some attitudes. But let's not forget how deep and how insidious is the mindset, the folkway, we are dealing with. Gay people are discriminated against because laws make us criminals. Those laws come from a religious tradition whose values permeate our culture. That religious tradition itself masks something even deeper that I have called INSTITUTIONALIZED WOMAN-HATRED. And that's where the real villain is. Let us not be fooled into thinking that the women's movement or its partner, gay liberation, is going to be satisfied with equal rights within the system. That is far too superificial. Women and gay people---and I hope all men---are not going to be satisfied until societal woman-hatred is a bleak part of human history, until the economic system itself and the value system underlying it are over turned and recreated.

In my growing lesbian-feminist community I find a lot of faith. It is a faith that none of us has to be a half-person, that there's no such thing as superiority---male or female---only difference. The faith in women is that we can be whole persons, claiming our aggressiveness and intellect as well as our subjectivity and caring; the faith in men is that they can find and love the woman in themselves. I feel deeply that until we begin to know who we are as

whole persons, real relationships and real communication across sex lines are impossible.

For us as women to find our self-love and our care for one another: that's the beginning of the social movement that will not just change sex laws or force court decisions or finally guarantee civil rights to any oppressed group. We may do those things, but what we are really about in our moving together as as women is that this time we be taken seriously. We'd better be, for our days as a race are numbered and our task is nothing less than the total transformation of the quality of human life on this planet.

RESOLUTION ON JUSTICE WILLIAM O. DOUGLAS

Submitted to S.C.A. Resolutions Committee, December 1975, by the Chairman of the Commission on Freedom of Speech. (Resolution prepared by Franklyn S. Haiman)

Whereas Justice William O. Douglas has served with the greatest distinction on the bench of the U.S. Supreme Court for longer than any other person in our history;

Whereas, during those many year, he has been a staunch defender of the rights of the American people to freedom of communication often finding himself in a small minority on those issues;

Whereas the eloquence of his First Amendment opinions stands as an inspiration to those who believe in the fundamental value of freedom of speech;

Therefore, the Speech Communication Association hereby expresses its gratitude to Mr. Justice Douglas, and wishes him well in the years of his retirement.

ARE WE TAKING THE LEAD?

-- on research involving Public School Textbook criteria,

-- on professional athletes and owners being restrained in their free expression of officials decisions,

-- on the Judiciaries use of "gag orders".

Keynote Address - W.S.C.A. Convention
1975

THE CLIMATE OF COMMUNICATION

by

Herman Cohen, Ph.D.

"Our strength has come and will come from the vigor and prosperity of our state and regional speech communication organizations.

I want to begin by telling you how pleased I am to be at another meeting of the WSCA. It is true that this is the first meeting I have attended since 1966. It is also true that I attended every WSCA meeting from 1949 to 1966 except for 1951 and 1958. Most importantly I want you to know that although I have been gone from the West, physically, for 9 years I still regard myself as one of you. During all those years I have continued my membership in WSCA. I read the journal, I vote in the elections and I follow the concerns of the association. Thus, although there have arisen those who know not "Herman" in the last decade, I feel as if I am speaking to old friends and colleagues and I hope some new friends as well.

There is another reason for my pleasure. As president of our national professional organization I am intensely aware that whatever present strength speech communication has and whatever strength it will have in the future is not dependent on the power, the prestige or the leverage of the SCA. Rather, our strength has come and will come from the vigor and prosperity of our state and regional speech communication organizations. A national superstructure will not provide for us the kind of local identification with our colleagues that WSCA provides. At a number of state and regional meetings during the past year, I have, to the point of boredom, emphasized that one of the important problems facing us is finding ways of strengthening our state and regional associations by providing services which will be useful and meaningful to members of our profession -- particularly those of us who are teaching in the schools and the community and small colleges. My concern is not just that our professional associations become stronger. I am more concerned that our profession become stronger and that one way to accomplish that aim is to insure that our associations are responsive to our needs.

Since I know so many of you so well it would be ludicrous for me to lecture my friends and colleagues. I have no intention of pontificating with you this afternoon (there is, after all, little papal about me). Rather it is my hope that I will be able to share some of my thoughts with you in an informal way. I want to discuss with you our present concern with free and open communication. I trust that we may understand where our historical development has led us and what we need to watch for in the future. I offer no guarantee that what I say will derive from wisdom. I can assure you, however, that my remarks grow out of more than 25 years of

teaching, professional involvement and, most of all, observation of our profession.

Our field is far different than it was when I went to the University of Oregon in 1949 with a new M.A. degree of which I was inordinately proud. Some of my pride had been diminished earlier when I was having coffee in Iowa City with Leroy Cowperthwaite who, with a new Ph.D. had just been appointed as an associate professor at the University of Richmond, while I was off to Oregon as an instructor. Somewhat enviously, I think, I congratulated Leroy and said "I'll probably retire as an assistant professor", to which he replied "What makes you think you'll be promoted?" I don't know how much I have accomplished in the last 25 years but, at least, I have exceeded Leroy's expectations of me.

In 1949, and even in 1954, when I finally received my Ph.D. the view of our field was much simpler, even simplistic, compared to our present perspective. Some of us, however, fresh from graduate school thought we were on the cutting edge (so to speak) of the most sophisticated kind of thinking about oral communication. We were, in retrospect, a field largely concerned with the teaching of public speaking and some group discussion. We were in our scholarship much concerned with attempting to explore our historical heritage of speech-making and rhetorical theory. Although I was frightened when he said it perhaps the late E.C. Mabie was partially correct when he asked me, "Are you going to do something useful or are you going to study another dead old orator?" As I look back we seemed to be involved in applying Aristotelian proofs and canons to every conceivable rhetorical event. I am afraid that such activity told us more about Aristotle than it did about speech. Our work was pretty unsophisticated. In short, we were about where we should have expected to be in our development after 40 years as a somewhat organized profession. But we had come a long way from our days as elocutionists. Twenty five years from now the present will, I am sure, seem as naive and primitive as those days do now.

Among other simplistic notions which we held to in those days was the relationship of speech and democracy. Almost every beginning high school and college textbook contained an obligatory chapter on "Speech in a Democratic Society". Discussion texts such as Baird and McBurney and Hance and argumentation texts emphasized the importance of their subject matter for training citizens to function in a democratic nation. Our prescriptions were simple but even some of us who were somewhat cynical believed them.

We are in 1975 a much more complex and sophisticated field. Our interests are much broader (as the name of our organization indicates). Our research techniques are much more refined. We know much more about human communicative behavior. We have learned to use methodologies detrived from history, psychology, sociology, anthropology, political science and other fields. As we became social scientists we began to change our role from policemen to observers. We became much more proficient at explaining what occured in a rhetorical situation but we also became more reluctant to evaluate public communication. We were not as concerned as we once were about the importance of communication in a democratic society. None of this

was particularly surprising since we were now social scientists. Social scientists are after all in their professional lives, certainly not in their personal lives, value free. They must approach the questions they ask without personal or cultural bias. Above all we are reluctant to draw conclusion which cannot be inferred from our data. Thus the commitment which we had towards the importance of speech in a democracy gradually eroded. Of course, many of us individually felt as strongly as before about this commitment. We were fully in favor of free and open communication in a free and open society but we seldom said so professionally. Such matters increasingly became the concern of lawyers, philosophers, journalists and organizations such as ACLU.

We have chosen not to comment on possible restraints which have been placed on our freedom to communicate.

I remember the optimism which Lloyd Crisp, Frank Haiman, Al Goldberg, others and I felt in 1960 in Gaslight Square in St. Louis when we met to form the Freedom of Speech Interest Group in the old SAA. Almost all of our optimism proved to be unjustified. I daresay that the Freedom of Speech Interest Group was stronger and more active in its first years than is the present Freedom of Speech Commission. Freedom of communication and the climate of communication are matters with which we are no longer deeply concerned.

I do not mean to say, or even suggest, that we are not concerned about public communication. Quite the contrary is true. As we matured our analysis of public discourse became more systematic, more thorough and more objective. Where formerly we were frozen into an Aristotelian analytical refrigerator now we have an abundance of approaches available to us. In the 50's we discovered the existence of Kenneth Burke and I.A. Richards, for example. In the 60's our own colleagues found imaginative ways of looking at discourse. Carrol Arnold's works on criticism; Lloyd Bitzer's rhetorical situation; Herman Stelzner's mythic/psychoanalytic analysis; Bob Newman's political perspectives are a few of the examples which come to mind.

In spite of, or perhaps because of, our critical refinement we lost some of the evaluative, even moral tone, of an earlier generation. I am perfectly aware that there are many of us who, on balance, consider this development a good thing. I suppose for the most part I do too. Nevertheless, I regret that we have chosen not to comment on the communicative climate of our country: that we have chosen not to comment on possible restraints which have been placed on our freedom to communicate: that we have chosen not to comment on public issues or public figures which have implications for free and open communication.

Although our sister organizations on the national level, such as the Modern Language Association, the American Psychological Association and the American Historical Association have spoken out when they perceived that issues affected them, we as critics and professionals have seldom taken public stands or discussed the questions involved in public and political communications which have professional implications for us.

I hope you understand that I am not suggesting that we individually or collectively respond as knee-jerk liberals or conservatives by taking collective stands on particular questions. As an advocate of free speech and open discussion I hope our responses will be as diverse as our own individual beliefs. I am, I suppose, a rhetorical Maoist. "Let a thousand critical flowers blossom". Because of my views I find it regretable that we have publically said so little about issues and events which affect the American climate of communication. I have heard a lot of private talk but I have read or heard very little public comment on the implications for us of Spiro Agnew's Des Moines speech about the control and bias of T.V.; or of the Pentagon papers and the manipulation of information during the Vietnam War: or that very intricate web for which we have adopted the rubric "Watergate". All of these matters raised serious questions about the communicative atmosphere in this country and they deserved our serious attention.

The communicative implications of these events have not gone unnoticed. Elizabeth Drew in her recent Washington Journal has written perceptively about the restraints on communication and information during Watergate. Jonathan Schell in a six part article in the New Yorker has analyzed the ways in which messages were manipulated from the early days of Vietnam to the last days of Richard Nixon. Hannah Arendt in "Lying in Politics" has looked carefully at the communicative implications of the Pentagon papers. These works all stem from a liberal, some would say a leftist, bias. Nevertheless, all of these critics offer their views of what happened to our communicative climate in our recent history and they offer explanations for why it happened. Whether we agree with their analyses or not we owe these writers from other fields our thanks for dealing with questions so vital to us.

Perhaps these critics have seen what we knew long ago but have partially forgotten. As some of you know I spend part of my life living in my own "Brigadoon" in 18th century Scotland. Indeed Carroll Arnold has accused me of inventing 18th century Scottish rhetoricians and then writing articles about them. Those Scots were an odd lot. In fact they still are. They were moralistic and cranky and opinionated. They did, however, have a profound respect for what they quaintly called "Democratic Government". Moreover, they perceived that the more free a society is the more flourishing is its "eloquence", which we would translate as "speech" or "communication". When restraints are placed on freedom the quality of public discourse declines. They also understood that the first concern of governmental rhetoric is the welfare of its citizens. Robert Wallace writing in the 1750's noted:

> ...A legislator whose conclusions tend not to promote liberty and happiness among mankind is little worthy of regard. The people are his charge...His speeches therefore ought first to be addressed from his own enlightened mind to the understanding of others...Before attempting to touch their hearts, to interest their affections or to influence their passions.

These Scots were keen historians for their time. Hugh Blair noted the correspondence between the rise and fall of rhetoric in Greece and Rome and the rise and fall of freedom and liberty. David Hume felt that ancient rhetoric was superior to 18th century British rheotric because Greece and Rome were, when rhetoric flourished, freer and more open societies.

The 18th century was, of course, an optimistic time in the history of the west. The best was expected of humans because they were innately good. Great progress for the human race was not only predicted it was expected.

Perhaps those old Scots were wrong but we must remember that ours is an 18th century country founded on the premises which animated that time. It was this spirit which informed our Constitution and the Bill of Rights. It is almost mythic in our culture that our nation is a huge town meeting where open discussion in an open society results in popular decisions. I am reminded in this context of Randolph Churchill's political advice to his son Winston -- "Trust the people".

The spirit also for a long time provided us with a rationale for the teaching and study of speech. We felt there was no more effective training for participation in a democratic society than training in public speaking. A citizenry trained in communication would be able to debate and analyze public questions and the popular will would be manifest. Lord Roseberry in the 19th century noted the much greater emphasis on "popular oratory" in America than in Britain and remarked on the American notion that "everybody must have his say". We place great faith in our ability to participate in a democracy and influence policy through speech. I am, of course, speaking of a simpler time when our society and the climate of communication were less complex. I realize that we cannot return to a naive "frontier" conception of rhetoric. We have learned, sadly perhaps, that neither the world nor rhetoric are as simple as we once thought. Some European political scientists and Daniel Moynahan are writing that the American notion of what they call "liberal democracy" is an obsolete artifact from the 18th and 19th centuries. I am unconvinced and believe the changes in our society should not deter us from doing all we can as a profession to maintain an atmosphere conducive to openess and honesty in public communication.

> A free and open communicative climate is essential for the free dissemination and exchange of ideas and for the open discussion of public questions.

This task will not be easy because there are aspects of our society which present serious obstacles to the maximization of open and free communication in the last quarter of the 20th century. The increasing complexity of society and of government has given government much greater control of information with the consequent power to determine what we will or will not know. Thus government has not only been able to determine the grounds for debate but also what evidence will be used. This change is not simply a product of our age. It has come upon us perhaps more gradually than we realized. During the times of crisis, particularly of wars,

the rationale of national security has been used to control information.

Certainly examples of this change in relatively modern times, can be cited from the administrations of Woodrow Wilson and Franklin D. Roosevelt not to mention Lyndon Johnson and Richard Nixon. The matter is particularly vexing for us because we have lived under conditions where national security has been paramount since 1941. Only in the later days of the Vietnam War did the press begin to question what was being said and what was being withheld.

There is in all of this hidden tribute to the Aristotelian conception of ethos. We have an almost innate tendency to want to believe and trust our leaders, particularly in times of crisis. We remember that during Watergate when President Nixon was deperately inventing new lies, the view was often expressed that we must not mistrust or doubt the word of our president---after all he is our president.

During the Vietnam war those who doubted Johnson's or Nixon's credibility found that their patriotism was often suspect. We need not dwell long on the recent quantum leap in the credibility of Gerald Ford. Students of Aristotle may make all the extrapolations they like.

Now that Watergate and Vietnam are behind us many of us feel better about the state of public communication. After all most of the facts about Watergate and the Vietnam War are known. And Nixon is not even being kicked around. But I ask you to remember how intense was the struggle of congress and the press, how much litagation and threatened litagation occured before we obtained the facts. We have no guarantees that we will not be misled again.

In spite of what I have said I have some optimism about the future. I am reminded that Carl Rowan, Former Director of the U.S.I.A. said that his wife's definition of an optimist is a woman who puts her shoes back on when a speaker says "in conclusion".

Let us see how optimistic you are while I try to draw some conclusions from my remarks. What morals can we, as professional persons in speech communication, draw? I am realistic enough not to propose that we try to change the way in which our leaders communicate with us. I ask though that we be aware of the need for maximum openess in our communicative atmosphere. The state of health of our nation and of our profession is dependent on a salubrious communicative climate.

I ask that we, as teachers of communication, at all levels, understand that a free and open communicative climate is essential for the free dissemination and exchange of ideas and for the open discussion of public questions. Our students must understand that their freedom to speak is influenced by the atmosphere in which they live.

Finally I ask that we be constant monitors of the communicative climate--communication meterologists so to speak. We must always know what the conditions are that lead to greater or less communicative freedom. When those conditions change, for better or for worse, we as a profession have the obligation to make those changes known. We must not be reluctant to criticize persons, institutions or bureaucracies which restrict the freedom and openess of communication. Nor should we be reluctant to praise those which act to improve our climate of communication. I am proud of the work done by the

Freedom of Speech Interest Group of W.S.C.A. as well as the commission on Freedom of Speech of the S.C.A. But it is not enough. Our criticism and praise should be disseminated as widely as possible and it should be calm, well based and articulate. We should not take stands just to take stands but we have the obligation to respond when conditions demand a response.

Thank you for providing me with a platform for my free speech.